



U. S. Fish and Wildlife Service

Draft EIS evaluation of MMPA Incidental Take Regulations for the Florida Manatee

Background

Manatees are a federally protected species under both the Endangered Species Act and Marine Mammal Protection Act (MMPA). Boat-related mortality in manatees is the greatest human-caused threat to the species. Historically, operation of power boats is responsible for about 25 percent of all manatee deaths and about 80 percent of all human-caused mortality in manatees. Successful recovery of the manatee is greatly dependent on controlling and reducing this source of injury and mortality.

In January 2000, Save the Manatee Club and several other groups and individuals filed a lawsuit against the U.S. Fish and Wildlife Service and the Corps of Engineers alleging violations of the Endangered Species Act, Marine Mammal Protection Act, National Environmental Policy Act, and Administrative Procedure Act. The central issue surrounded the adequacy of federal environmental reviews and decisions regarding permits for boat docks, ramps, and marinas. A number of groups representing boating and development interests later intervened in the litigation.

A settlement agreement was reached among the government, plaintiffs and interveners and ratified by the U.S. District Court in January 2001. Generally, the settlement requires us to implement actions we were in the process of doing. It established a firm set of dates for completing certain tasks and clearly defined the communication requirements for all parties involved.

Issue

Among the tasks to be accomplished is development of MMPA Incidental Take Regulations to address incidental take of manatees. The MMPA prohibits the taking of any marine mammal, including by harassment, in the absence of regulations authorizing incidental take for specific activities in specific geographic areas. To date, there is no authorization for the incidental, unintentional death, injury, or harassment of manatees caused by these otherwise legal activities. This rulemaking will address incidental take of manatees resulting from government activities related to watercraft and watercraft access facilities including: 1) regulating boater behavior on the water; 2) permitting construction of watercraft access facilities (marinas, docks, boat ramps); 3) funding construction of watercraft access facilities; 4) operating watercraft access facilities; and 5) operating watercraft.

On March 12, 2001, we published an Advance Notice of Proposed Rulemaking in the *Federal Register* and opened an informal public comment period which closed April 11, 2001. During this initial period we solicited public comment on our process, what form the regulations might take, as well as anything addressing the five (5) activities previously outlined above.

Status

We are now soliciting public comments on the development of a draft Environmental Impact Statement. Specifically, we are seeking: 1) suggestions regarding the range of alternatives to be considered in the EIS, including alternatives for structuring the proposed incidental take regulations, and alternatives to incidental take regulations; 2) information on the direct, secondary and cumulative effects of this rulemaking on manatees, manatee habitat, and other aspects of the human environment; 3) information regarding the potential social and economic effects of the proposed regulations; 4) information on potential mitigation measures, including technological measures, that would result in the least negative impact on manatees and their habitat; and 5) suggested means and measures to report and monitor the effects of incidental take on manatees. All comments must be received by July 25, 2002.

Throughout this process we intend to continue our close coordination with the Florida Fish and Wildlife Conservation Commission (FWC), the Army Corps of Engineers, other governmental entities invited to participate, and other affected parties.

Questions?

Additional information regarding the Incidental Take Regulation, including this fact sheet, Frequently Asked Questions, and the capacity to respond with electronic comments are available on the internet at <http://northflorida.fws.gov>. If you have specific questions or need special assistance, please contact the USFWS Jacksonville Field Office via e-mail at manatee@fws.gov or by phone at 904-232-2580 ext. 109.

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